Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No._____

In The

Supreme Court of the United States

Christine R. Scott,

Petitioner

v.

Prison Health Services, Inc.,

Respondent

On Petition For Writ Of Certiorari
To The United States Eighth Circuit Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

Horace A. Walker
Counsel of Record
518 Pyramid Place
Second & Center Streets
Little Rock, Arkansas 72201
(501)375-1135

Question Presented for Review

Whether the Court of Appeals erred in dismissing the Petitioner's appeal for failure to prosecute for not paying her filing fee.

Corporate Disclosure Statement

Counsel for the Petitioner was hired in this matter on July 25, 2003. He has no information that the Respondent has a parent corporation or if any publicly owned companies own 10% or more of the Respondent's stock. Once this information is received the information will be supplemented.

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Boag v. MacDougall, 454 U. S. 364, 102 S. Ct. 700 (1982) 1

Haines v. Kerner, 404 U. S. 519, 92 S. Ct. 994 (1972) 1

Williams v. Carter, 10 F. 3rd 563 (8th Cir. 1993) 1

Statutes and Rules

Rule 10 of the Supreme Court Rules 1

Rule 16 of the Supreme Court Rules 1

Rule 24 of the Federal Rules of Federal Procedure 1

Local Rule 3c Eighth Circuit Rules 1

Citations of the Official Judgment and Order

This case is cited below as *Scott v. Prison Health Services, Inc,* No. 4:00CV00886 SWW, (E Dist Ark May 16, 2002) and *Scott v. Prison Health Services, Inc.* No. 02-2874 (8th Cir. Feb. 26, 2003)

Jurisdictional Statement

The Petitioner appeals from an order dismissing her appeal for lack of prosecution dated February 26, 2003. This Courts jurisdiction is based upon Rule 10 of the Supreme Court Rules.

Statement of the Case

The Petitioner filed an employment discrimination case in the Eastern District of Arkansas. Private counsel represented her. The case proceeded as a jury trial and on May 15, 2002 the jury found for the Respondent and the case was dismissed against the Petitioner.

The Petitioner sought to appeal the case, but no longer could afford private counsel. She applied to the district court to allow her to proceed *in forma pauperis* (IFP). That petition was denied. The Petitioner then sought to appeal pro se. She sought IFP status with the Eighth Circuit Court of Appeals and for the transcript of the record to be paid for by the government. That motion was denied. The claimant had not completed an IFP application. The Petitioner's pleading were crude at best and all were hand written.

The Petitioner was ordered to pay her filing fee or her appeal would be dismissed. The Court originally dismissed the appeal pursuant to Rule 3© of the Rules of the Eighth Circuit for failure to prosecute when the Petititioner did not pay the filing fee.

The Petitioner filed a motion asking that her motion for IFP status be reconsidered. She submitted supporting information for her request, but did not complete an IFP application. The Court entered an order vacating the initial dismissal and ordered the Petitioner to pay her filing fee within 15 days. Petitioner filed another request asking the Court to reconsider he request for IFP status. Her request was denied and her appeal was dismissed for failure to prosecute.

The Petitioner asked the Court to reopen the appeal. The motion was denied and the clerk of the court was directed to accept no further motions. The Petitioner contends the dismissal of the appeal was an abuse of discretion.

Argument

The basis of this Writ is to allow the Petitioner to have a fair appeal of her district court dismissal. The Petitioner attempted to handle the appeal pro se. She could not afford counsel. She could not afford to pay for her transcript or the filing fees of appeal at the time. The Petitioner was not aware of all the requirements that were required to proceed on appeal *in forma pauperis*. As a layperson she is not aware of Rule 24 of the Federal Rules of Appellate Procedure. She is also not aware of this Court's Rules 10 through 16 explaining and detailing the requirements of seeking this Writ.

The Petitioner came to counsel because no other attorneys she spoke to would assist. The Petitioner contends her appeal has merit and wishes to pursue the appeal. She now has minimal funds and can submit the filing fee with this petition.

This Court has consistently held that pros se litigants in artful pleadings are to be liberally construed. See: *Haines v. Keener,* 404 U. S. 519 (1972) and *Boag v. MacDougall,* 454 U. S. 364, 102 S. Ct. 700 (1982) The Petitioner did not complete her *in forma pauperis* affidavit, but as the Eighth Circuit noted, she did submit supporting information. This included a list of her bills and income. The Petitioner's appeal was still dismissed.

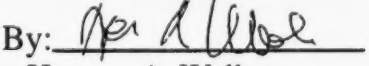
The Eighth Circuit has held that pleadings by pro se litigants should be treated with a degree of indulgence to avoid a meritorious claim being lost through misunderstanding. *Williams v. Carter,* 10 F. 3rd 563 (8th Cir. 1993) The Petitioner made a good faith effort to comply with the appellate court's requirements. She should be given an opportunity to pursue her appeal.

Conclusion

Petitioner requests that this Court accept her Writ and set it for briefing.

Respectfully submitted,

Horace A. Walker
Counsel for Petitioner
518 Pyramid Place
Second & Center Streets
Little Rock, Arkansas
72201
(501) 375-1135

By: 
Horace A. Walker

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

CHRISTINE R. SCOTT
VS.
PRISON HEALTH SERVICES, INC.
NO.4:00CV00886 SWW

JUDGMENT ON JURY VERDICT

This action came on for trial May 6, 2002, before the Court and a jury, the Honorable Susan Webber Wright, Chief Judge, United States District Court, presiding, and the issues having been duly tried and the jury having renderedits verdict on May 10, 2002; now therefore, pursuant to the verdict,

IT IS ORDERED AND ADJUDGED that plaintiff Christine R. Scott takes nothing on the complaint against defendant Prison Health Services, Inc., and that the complaint herein be, and the same is hereby, dismissed.

IT IS SO ORDERED this 15th day of May, 2002.

Susan Webber Wright
SUSAN WEBBER WRIGHT
Chief United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
111 S. 10th Street
Room 24.329
St. Louis, Missouri 63102

Februaury 26, 2003

Ms. Christine R. Scott
16 Hanover Drive
Little Rock, AR 72209

Re: 02-2874 Christine R. Scott vs. Prison Health

Dear Ms. Scott:

Enclosed is a copy of an order entered today in the above case at the direction of the court.

(5009-010199)

Sincerely,

Michael E. Gans

Michael E. Gans
Clerk of Court

dms
Enclosure (s)
cc: Honorable Susan Webber Wright, U.s. District Judge
Mariam T. Hopkins
Jim McCormack, Clerk

District Court / Agency Case Number (s) : 4:00-cv-886 SWW

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 02-2874
Christine R. Scott,
Appellant,
vs.
Prison Health Services, Inc.,
Appellee.

Appeal from the United States District Court for the Eastern District of Arkansas

Christine Scott (Scott) appealed from an adverse jury verdict in her employment discrimination case. The district court denied Scott in forma pauperis (IFP) status. On appeal, this court, on December 12, 2002 order directed Scott to pay the appeal filing fee or the appeal would be dismissed for failure to prosecute.

When the filing fee was not paid by January 7, 2003, the court dismissed the appeal for failure to prosecute. Shortly thereafter, the clerk's office received a motion by Scott for reconsideration of the order denying her leave to proceed IFF. Realizing the December 12, 2002 order had not advised Scott specifically that she had 15 days to pay the filing fee, the court, on its own motion, entered an order on January 14,2003, vacating the judgment, which dismissed the appeal for failure to prosecute, and reopening the appeal to allow Scott 15 days to pay the filing fee. This order advised Scott if the filing fee was not paid within 15 days, the appeal would be dismissed for failure to prosecute.

On January 23, 2003, the court received Scott's second motion to reconsider her motion to proceed IFP, with supporting information, but without any IFP affidavit. On January 31, 2003, the court entered an order denying Scott's motion for reconsideration of this court's January 14, 2003 order. Scott did not pay the filing fee required by the January 14, 2003 order. On February 6, 2003, the court entered an order dismissing Scott's appeal for failure to prosecute, pursuant to 8th Cir. R. 3c.

On February 20, 2003, without paying the filing fee, Scott filed a motion to reopen the appeal. Scott questions why she has been denied IFP status by the district court, and now by this court on two occasions. Scott has not complied with the courts' rules to demonstrate IFP status and has failed to comply with the court's orders requiring her to pay the filing fee to prosecute her appeal.

Scott's motion to reopen the appeal is denied, and the clerk of the court is directed not to accept any further motions from Scott for filing in this appeal.

February 26, 2003

Order Entered at the Direction of the Court:
Michael E. Gans
Clerk, U.S. Court of Appeals, Eighth Circuit